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Daniel D. O'Neill, Daniel J. Byrne, Gerald E. Shanley, III,
John Weisser and Rafferty Asset Management, LLC*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re Direxion Shares EFT Trust)
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_____)

Civil Action No. 1:09-CV-08011-KBF

**NOTICE OF MOTION TO DISMISS THE
THIRD CONSOLIDATED AMENDED CLASS ACTION COMPLAINT**

PLEASE TAKE NOTICE that, upon the annexed Memorandum of Law in Support of the Direxion Defendants' Motion to dismiss and the papers and pleadings previously filed herein, Defendants Direxion Shares EFT Trust, Daniel d. O'Neill, Daniel J. Byrne, Gerald E. Shanley, III, John Weisser, and Rafferty asset Management, LLC (collectively the "Direxion Defendants") will move this Court, before the Honorable Katherine B. Forrest, District Court Judge, at the Daniel Patrick Moynihan United States Courthouse for the Southern District of New York, 500

Pearl Street, New York, New York 10007, at a date and time to be determined by the Court, for an Order dismissing the Third Consolidated Amended Class Action Complaint in this action with prejudice pursuant to Fed. R. Civ. P. 8(a) and 12(b)(6).

Dated: February 24, 2012
New York, New York

K&L Gates LLP

By: /s/ Nicholas G. Terris

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